IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

WP(C).No. 33844 of 2006(D)

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OS.339/1998 of PRL.SUB COURT,TRIVANDRUM

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PETITIONERS:

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1. THE TAMIL NADU INDUSTRIAL INVESTMENT CORPORATION LIMITED NO.473, ANNASALAI, CHENNAI, REPRESENTED BY ITS MANAGING DIRECTOR, NO.473, ANNASALAI, CHENNAI-35.

2. THE BRANCH MANAGER,
TAMIL NADU INDUSTRIAL INVESTMENT
CORPORATION LIMITED, SHRI.PPKA COMPLEX,
2ND FLOOR, 45, SHAMUGHARAJA ROAD, NEAR AMBEDKAR.
STATUE, KARAIKKUDI -630 002.

3. THE REGIONAL MANAGER,
THE TAMIL NADU INDSTRIAL INVESTMENT CORPORATION LIMITED,
COLONY, ANNA NAGAR, MADURAI – 20.

4. THE ASST. GENERAL MANAGER (LAW)
THE TAMIL NADU INDUSTRIAL INVESTMENT CORPORATION LIMITED.
473, ANNA SALAI, NANADANAM, CHENNAI – 35

(THE 2ND PETITIONER IS AUTHORISED AND EMPOWERED TO REPRESENT THE PETITIONERS 1,3 AND 4.)

BY ADV. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.M.R.SARIN
SRI.HARISH GOPINATH
SRI.V.VINAY MENON

RESPONDENT:

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SULAIKHA BEEVI, D/O. FATHIMA BEEVI,
TC NO.48/1548, DOULATH MANZIL, KOCHIRAVILA,
MANACAUD VILLAGE, THIRUVANANTHAPURAM

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**M.SASIDHARAN NAMBIAR,J.**

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**W.P.(C)NO.33844 OF 2006**

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**DATED THIS THE 20th DAY OF DECEMBER, 2006**

**JUDGMENT**

Petitioners are defendants in O.S.339/98 on the file of Sub Court, Thiruvananthapuram. At the instance of plaintiff, the disputed documents were sent to Forensic Science Laboratory for the opinion on the identity of the handwriting. Under Ext.P5 report submitted by Scientific Assistant of Forensic Science Laboratory, it was opined that the materials are not sufficient to give a conclusive opinion. Plaintiff, thereafter filed I.A. 4328/06, an application to appoint another expert, which was allowed by learned Sub Judge under Ext.P7 order. This petition is filed under Article 227 of Constitution of India contending that when the original report is available, without setting aside that report, learned Sub Judge should not have appointed another expert. It was also contended that learned Sub Judge did not provide opportunity to petitioners to object to the petition or to verify the details of the expert to whom the documents were directed to be sent and therefore Ext.P7 order is to be quashed.

2. On hearing learned Counsel appearing for petitioner, it is clear that learned Sub Judge found that the report of an expert is

necessary to decide the disputes involved in the case. The documents were forwarded to Forensic Science Laboratory. The report received from Forensic Science laboratory is insufficient to enter a finding, as the report shows that the materials furnished to the laboratory are insufficient to give a conclusive opinion. In such circumstances, I.A.4328/06 was filed . I do not find any infirmity in Ext.P7 order directing appointment of another expert. But there is some force in the submission of learned Counsel appearing for petitioner that petitioner was not afforded sufficient opportunity.

3. Learned Sub Judge should have heard petitioner before fixing the expert, to whom the documents are to be forwarded. Learned Sub Judge is therefore directed to decide as to whom the documents are to be forwarded. Learned Sub Judge shall give an opportunity to defendants also to furnish name of an expert and thereafter decide to whom the documents are to be forwarded.

Petition disposed accordingly.

**M.SASIDHARAN NAMBIAR,JUDGE**

Acd